

Wetlands Review (Nontidal)

Purpose/Description

The purpose of the nontidal wetlands review process is to maintain the ecologic vitality of nontidal wetlands. Wetlands are reviewed as part of the submission package for building and/or grading permits and as part of the special exception, planned unit development, site design and major subdivision review processes.



Activities that are regulated as part of the wetlands review process are as follows:

1. Removal of any material from a nontidal wetland.
2. Change of existing drainage patterns which are connected to a nontidal wetland.
3. Change in the wetland water level or local water table.
4. Discharge of any material into a nontidal wetland.
5. Grading to alter the topography of a nontidal wetland.
6. Destruction or removal of plant life within a nontidal wetland.

Any proposal to alter a nontidal wetland must demonstrate that there is no practicable alternative to the alteration, that wherever possible, impact has been avoided and minimized, and that any wetlands destroyed are to be mitigated.

Authority

Maryland Nontidal Wetlands Act of 1989 and the Federal Clean Water Act, Amended, Section 404 regulate construction within or in close proximity to nontidal wetlands. Projects with fewer than five acres of nontidal wetlands are regulated by the state only.

Alteration of nontidal wetlands within the Chesapeake Bay critical area is regulated by the Annapolis City Code and Charter, Chapter 21.67 (Critical Area Overlay), Section 21.67.110(A) (Nontidal Wetlands).

Submittal Requirements

Although the agency to which the applicant submits plans varies according to the amount of nontidal wetland on the construction project site, in all cases the applicant must submit a site plan delineating the specific location of nontidal wetlands. The boundaries of the nontidal wetland must be identified by plant species, soil type and hydrology, and an appropriate buffer area must be proscribed.

Steps of the Application Process

For development sites with nontidal wetland **greater than five acres**:

7. Applicant meets with Department of Public Works staff to discuss the wetlands review process.
8. Applicant submits a permit application delineating nontidal wetlands on a site plan to the Corps of Engineers, Baltimore District and to the Maryland Department of Natural Resources.
9. Applicant submits copies of federal and state submittals with the city building and/or grading permit application to the Department of Public Works.

For developments sites with nontidal wetland **under five acres**:

10. Applicant meets with Department of Public Works staff to discuss the wetlands review process and Department of Planning and Zoning staff if site design review is required.
11. Applicant submits a permit application delineating wetlands on a site plan to the Maryland Department of Natural Resources.
12. Applicant submits copies of state submittals with the city building and/or grading permit application to the Department of Public Works.

For development sites with nontidal wetland located **within the critical area**:

13. Applicant meets with Department of Public Works staff to discuss the wetlands review process (and Department of Planning and Zoning staff if site design review is required).
14. Applicant submits a site plan for the proposed construction delineating wetlands to the Department of Public Works along with the city building and/or grading permit application.

Processing Time

The state and federal permitting authorities have identical timelines: 45 days to determine if the application is complete. During this 45 days, public comment will be solicited. If a hearing is requested, it will be scheduled within a reasonable amount of time and a decision will be rendered within another 45 days from the hearing. If no hearing is requested, a decision will be rendered within 60 days from the receipt of the permit application.

State and federal approvals must be received prior to the issuing a city building or grading permit. If no changes in the city application are necessary in order to meet the terms of the state and/or federal permits, then the city permit process proceeds at its normal pace (see the Building Permit description). If changes to the city permit application are necessary in order to comply with state or federal requirements, the applicant should factor in time to make these changes.

Fees

There are no charges associated with the state and federal permit processes. There are no additional fees assessed by the City of Annapolis over and above those required for a building or grading permit application.

Enforcement and Appeals

Any of the permitting authorities may enforce the terms of their permits. Federal and state agencies may pursue legal remedies. Because state and federal compliance is required as a condition of the city permit, the city effectively may enforce all federal and state, as well as city requirements. Enforcement by the city may result in a stop work order, or final use and occupancy of the premises may be denied until outstanding issues are adequately addressed.

Appeals to federal and state decisions may be made directly to the permitting agencies, the Army Corps of Engineers and the Maryland Department of Natural Resources. Further appeals may be made to the respective federal and state courts. Appeals to city decisions are made to the Building Board of Appeals.

Other Considerations or Requirements

Because of the potential complexity of acquiring multiple permits, the applicant is encouraged to work closely with the city, state and federal agencies prior to making the application, so that all requirements will be adequately addressed concurrently. Filing for multiple permits simultaneously will help to expedite agency review.

Tidal wetlands review is part of the Port Wardens process.

Contact Person

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